

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

October 6, 2005

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 6, 2005, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Darrell Downing, Vice-Chair; John W. McKay Jr. (Out @ 2:36); Bill Johnson (In @ 1:31); Bob Aldrich; M.S. Mitchell; Don Anderson; Bud Hentzen; Ronald Marnell; Hoyt Hillman (In @ 1:31) and Morris K. Dunlap. Harold Warner Jr., Chair, Denise Sherman and Elizabeth Bishop were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

1. Approval of September 22, 2005 meeting minutes.

MOTION: To approve the September 22, 2005 meeting minutes.

MCKAY moved, **ALDRICH** seconded the motion, and it carried (7-0-1). **DUNLAP** abstained.

❖ **SUBDIVISION ITEMS**

2. Consideration of Subdivision Committee recommendations from the meeting of September 29, 2005.

2-1. SUB 2005-92: One-Step Final Plat -- MDI ADDITION, located on the southeast corner of 15th Street South and 375th Street West. (Associated with ZON2005-38)

NOTE: This is a replat of a portion of the Conquest North Addition. The Conquest North Community Unit Plan (DP-24) was also approved for this site.

STAFF COMMENTS:

MOTION: To approve subject to staff recommendations.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (10-0).

2-2. SUB 2005-84: Final Portion of Overall Preliminary Plat -- TARA FALLS THIRD ADDITION, located north of Pawnee and west of 127th Street East.

NOTE: This is the final plat of a portion of the overall preliminary plat of Casa Bella Addition that was approved for this site on April 7, 2005. This second phase includes the northernmost portion of the overall preliminary plat – is consistent with the preliminary plat in regards to street layout, although one fewer lot has been platted. This is also a replat of a portion of Tara Falls Addition.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of City water to serve the lots being platted.
- B. Since sewer services have been installed, **Debt Management** has requested the submission of a respread agreement for special assessments due to the lot reconfiguration.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- F. The paving guarantee shall include the installation of a temporary turnaround at the terminus of Michelle at the plat's south line. The plat's text should indicate that the vacation of the temporary turnaround area would be effective upon the extension of the street southward.
- G. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.

- H. **GIS** needs to comment on the plat's street names. **The street name is approved. A street name change will be needed for the adjoining segment of Michelle to the north.**
- I. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to Subdivision Committee recommendation and staff comments.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (10-0).

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- 2-3. **SUB 2005-75: Final Plat -- AFTON LAKESIDE ESTATES ADDITION**, located on the north side of 47th Street South and east of 247th Street West.

NOTE: This is unplatted property located in the County. It is in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Goddard Area of Influence.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. **The applicant shall meet with Sedgwick County Code Enforcement regarding water supply and soil testing requirements. A memorandum shall be obtained specifying approval of the proposed individual alternative sewer system from County Code Enforcement along with a maintenance agreement.**
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection. **The applicant has proposed connection to the rural water system.**
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan has been approved.**
- E. Complete access control is needed to 47th St. except at the drive location.
Access control has been platted as requested.
- F. The applicant shall guarantee the closure of the field entrance.
- G. The platlor's text should be revised to reference a private drive.
- H. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. A covenant shall be submitted regarding the Reserve platted for private drive purposes, which sets forth ownership and maintenance of the private drive.
- J. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- K. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to Subdivision Committee recommendation and staff comments.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (10-0).

- 2-4. **SUB 2005-95: One-Step Final Plat -- 21st STREET KIDS AND FAMILY EMPOWERMENT ADDITION**, located on the north side of 21st Street North and east of Hydraulic.

NOTE: This is a replat of a portion of the Logopedics Addition, which includes the vacation of 24th Street. A zone change request (PUD 2005-04) has been requested from MF-29, Multi-Family Residential to PUD, Planned Unit Development.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being scheduled for City Council, the zone change will need to be approved.

- B. Extensions for sanitary sewer and City water to Lots 3 and 4 will be handled by the **City Water and Sewer Department**.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. The right-of-way width needs to be denoted for 25th St. North.
- E. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- F. **Traffic Engineering** needs to comment on the access controls. Access controls have been platted in accordance with the proposed PUD. The plat proposes two access openings to 25th St. North and two street openings to 21st St. North. **Access controls have been approved.**
- G. Since the vacation of 24th St. North has created an off-site stub to the west, the Applicant shall contact the adjoining landowners requesting that a vacation request be submitted for the remaining segment of this street.
- H. The plat's text should include language that protects the public from cost of reconstructing improvements in Reserve A.
- I. The Applicant shall guarantee the paving of the proposed streets.
- J. If any of the intended recreational uses for the reserves includes a swimming pool, "neighborhood swimming pool" shall be specified in the plat's text and a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.
- N. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- O. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.

- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy advises of equipment located within the portion of 24th St. North being vacated. This vacated street will need to be retained as a utility easement or equipment relocated at the owner's expense.**
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to Subdivision Committee recommendation and staff comments.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (10-0).

- 2-5. **SUB 2005-103: One-Step Final Plat -- GARDEN SPRINGS ESTATES SECOND ADDITION,** located on the south side of 39th Street South and east of 311th Street West.

NOTE: This is unplatted property located in the County. It is in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. **County Code Enforcement has required an alternative sewage system for Lot 1 due to its lot size, if tests indicate that type of soil.**
- B. In conformance with the Urban Fringe Development policy, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan has been approved. Minimum pads need to be established at 1409.**
- E. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- F. The platlor's text shall include reference to the correct name of the plat in the owner's certificate.
- G. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- H. The year "2005" needs to replace "2004" within the Register of Deeds signature block.
- I. The Applicant is advised that if platted, the front setback standard along Garden Lane for the RR, Rural Residential District is 30 feet.
- J. GIS advises that the street name "MacArthur Rd" needs to be revised to "Garden Ln".
- K. In accordance with Access Management Regulations for County plats, complete access control is required for arterials intersecting with local streets. Complete access control of 75 feet is needed along Garden Lane.
- L. The legal description does not match the plat boundary.
- M. References to drainage easements and floodway reserves need to be coordinated in platters text.
- N. A benchmark is needed on final plat.
- O. The north quarter corner is labeled incorrectly.
- P. Reference to 82a-301 shall be deleted from platlor's text.
- Q. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal

of this binder and any relevant conditions found by such a review.

- S. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- BB. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to Subdivision Committee recommendation and staff comments.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (10-0).

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- 2-6. **SUB 2005-104: One-Step Final Plat -- MONSANTO ADDITION**, located south of 61st Street North and east of Meridian.

NOTE: This is a replat of the Hybritech Wheat Addition in addition to adjoining unplatted land. This site is located in the County within three miles of the City of Wichita. Upon the annexation of the Northgate Addition to the west, this property will be eligible for annexation. It is located in an area designated as "2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Upon the annexation of the Northgate Addition to the west, this property will be eligible for annexation. In the event Northgate Addition is annexed prior to this plat being scheduled for City Council, annexation of this property will need to be completed. Only City Council approval will be necessary and the County Commission signature block may be deleted.
- B. The site is currently served by on-site sewerage facilities and applicant intends to continue this service. **County Code Enforcement** needs to comment on approval of the site for on-site sewerage facilities.
- C. City water services are available to serve the site.
- D. **City of Wichita Water and Sewer Department** requests a petition for future extension of sanitary sewer main and lateral. Perimeter utility easements should be dedicated.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan has been approved by County Engineering. City Engineering requests a copy of drainage plan.**
- F. The owner's name is incorrect in the platlor's text and notary signature block.

- G. The plat denotes two openings along Meridian. **County Engineering has approved the access controls subject to designation of the south drive as agricultural use only.**
- H. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. The Applicant is advised that if platted, the building setbacks may be reduced to 25 feet to conform with the Zoning setback standards for section-line roads.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to Subdivision Committee recommendation and staff comments.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (10-0).

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- 2-7. **SUB 2005-105: One-Step Final Plat -- EBERLY FARMS OFFICE PARK ADDITION,** located east of 135th Street West and on the south side of 21st Street North.

NOTE: This site is located in the County within three miles of Wichita's boundary. The site has been approved for a zone change (ZON 2005-30) from SF-20, Single-Family Residential to GO, General Office. A Protective Overlay (P-O #161) was also approved for this site addressing uses. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. An outside-the-city water agreement shall be provided. Fees in lieu of assessment regarding sewer main are needed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. Minimum pads shall be 2-ft higher than base flood elevation. Reserves A, B and C shall be combined into one Reserve to be maintained by a Lot Owner's Association. The standard floodway language shall be included. The floodway reserve shall be extended into the channel change easement or an off-site dedication of floodway reserve established.**
- D. The plat denotes one street opening along 21st St. North and complete access control along the remaining frontage. The final plat tracing shall reference the dedication of access controls to the "appropriate governing body". **The location of 21st Ct. violates access management standards and County Public Works recommends vacation of street right of way to the west of the plat. If right of way is not vacated, then complete access control is needed along west side of Lots 1 & 2, Block A, or a guarantee provided for paving of the street and left and right turn lanes into adjacent street.**
- The Applicant has agreed to dedicate complete access control along the west side of Lots 1 and 2.**
- E. **County Engineering** recommends extending cul-de-sac to south end of plat. **The Subdivision Committee approved a contingent dedication for the cul-de-sac extension.**
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- G. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. The applicant shall guarantee the installation of the proposed street.
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. A PO Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PO and its special conditions for development on this property.
- M. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.

- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to Subdivision Committee recommendation and staff comments.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (10-0).

2-8. SUB 2005-106: One-Step Final Plat -- SOUTHERN RIDGE FOURTH ADDITION, located south of Pawnee and on the west side of Maize Road.

NOTE: This is a replat of the east portion of Southern Ridge 3rd Addition increasing lot sizes resulting in 12 fewer lots. The street layout has not changed.

- A. Petitions have been provided with Southern Ridge 3rd Addition for sewer, water, drainage and paving improvements. **New petitions are needed for future improvements.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. An onsite benchmark is needed.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- F. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- G. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner

should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to Subdivision Committee recommendation and staff comments.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (10-0).

❖ **PUBLIC HEARINGS – VACATION ITEM**

3-1. VAC 2005-34: Request to Vacate a Platted Alley.

<u>APPLICANTS/OWNERS:</u>	Affordable Housing YWCA Isaac Boehr Lawrence Smith Cook Construction LLC Via Christi Tai Nguyen Castillo Development LLC City of Wichita Parks & Recreation Dept.
<u>LEGAL DESCRIPTION:</u>	The platted 20-foot alley as dedicated on the Burleigh's Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located between 10 th Street North – Saint Francis Avenue – 11 th Street North – Emporia Avenue (Council District VI)
<u>REASON FOR REQUEST:</u>	The alley is in minimal repair, gets minimal use and attracts undesirable elements
<u>CURRENT ZONING:</u>	The alley is public ROW. Properties east and west of the site are zoned "TF-3" Duplex Residential and "B" Multi-family Residential. Emporia Park is located along a portion of the west side of the alley. The alley intersects 10 th & 11 th Streets North on its south and north sides.

The applicants are requesting consideration to vacate the 20-foot wide (x) approximately 620-foot long north-south platted alley, as previously described. Development abutting the alley included Emporia Park, a Ronald McDonald house, a YWCA office, single-family residences, apartments, dental offices, and parking lots. The applicants' proposal will allow them, the abutting property owners, the opportunity to better maintain the reverted alley/site. All the abutting property owners have signed the petition and application to vacate. There is a gas line, Westar equipment, sewer line and manholes in the length of the alley. The Burleigh's Addition was recorded with the Register of Deeds February 3, 1886.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted alley ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 15, 2005 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted alley ROW and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted alley ROW, described in the petition should be approved with conditions:
 - (1) Vacate that portion of the alley as described.
 - (2) Retain the alley as a utility easement. The 100-year old sewer line needs to be repaired, thus Water and Sewer need access to be able to perform any required maintenance prior to any improvements being made over the alley where the sewer line is located. Access to all utilities needs to be provided at all times.

- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicants' expense. If utilities are moved the alley shall be retained as an easement until all utilities have been relocated and easements have been provided. All public utility easements must be recorded with this Vacation Order
- (4) All improvements shall be according to City Standards, including private drive entrances onto public ROW or if closing the alley provides a guarantee for the closing of the alley return onto 11th & 10th Streets North and the continuation of the curbing.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion of the alley as described.
- (2) Retain the alley as a utility easement. The 100-year old sewer line needs to be repaired, thus Water and Sewer need access to be able to perform any required maintenance prior to any improvements being made over the alley where the sewer line is located. Access to all utilities needs to be provided at all times.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicants' expense. If utilities are moved the alley shall be retained as an easement until all utilities have been relocated and easements have been provided. All public utility easements must be recorded with this Vacation Order
- (4) All improvements shall be according to City Standards, including private drive entrances onto public ROW or if closing the alley provides a guarantee for the closing of the alley return onto 11th & 10th Streets North and the continuation of the curbing.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (10-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: CON2005-41** – Mildred Mitchell Trust (Marsha Meyersick, Co-Trustee) and Cingular Wireless (Curtis Holland) Request Sedgwick County Conditional Use for wireless communication facility on property zoned "RR" Rural Residential on property described as;

A tract of land situated in the Southwest Quarter of the Southwest Quarter of Section 22, Township 26 S, Range 2 East of the 6th P.M., Sedgwick County, Kansas, more particularly described as follows:

COMMENCING at the Southwest corner of said Section 22, said point bears South 88 degrees 50'02" West, a distance of 2644.23 feet from the Southeast corner of the Southwest Quarter of said Section 22, said point also bears South 01 degrees 30'01" East, a distance of 2652.84 feet from the Northwest corner of said Southwest Quarter; thence North 10 degrees 35'31" East, a distance of 1224.90 feet to the POINT OF BEGINNING; thence North 00 degrees 00'00" East, a distance of 100.00 feet; thence South 90 degrees 00'00" East, a distance of 100.00 feet; thence South 00 degrees 00'00" West, a distance of 100.00 feet; thence North 90 degrees 00'00" West, a distance of 100.00 feet to the POINT OF BEGINNING. Generally located 1/4 mile north of 45th Street North on the east side of Greenwich Road.

BACKGROUND: The applicant's are seeking a Conditional Use to permit a 195-foot tall lattice type wireless communications facility support structure and associated equipment. The application area is zoned RR Rural Residential, is approximately 100 feet by 100 feet square in size, and is located approximately 1/4 mile north of 45th Street and east of Greenwich Road. The property owner owns the 40 acres surrounding the application area, and the remainder of the 1/4 section surrounding the parent tract. The application area is unplatted. The wireless compound is to be located greater than 207 feet east of the Greenwich right-of-way and nearly a 1/4 mile north of 45th. Within the approximately 100 by 100 square-foot application area the applicant proposes to construct a 60-foot by 60-foot fenced compound that would contain the self-support tower, equipment shelter and accessory equipment. Access to the site is via a drive off of Greenwich.

A rental residence owned by the property owner is located on the 40-acre parent site and it is located within 500 feet of the tower. No other residences are located within 1,000 feet of the application area.

The applicant indicates they need a tower in this general area in order to improve customer service for Cingular Wireless, especially "in building coverage" between 159th and Rock Road, and between 61st and 29th streets north. There are not any structures suitable for co-location located within the target service area. The closest structure with any height is a 180-foot tall City of Wichita water tower located 1.75 miles to the northwest of the application area (north of 53rd Street, approximately ½ mile east of Rock Road). The closest existing wireless tower is located 1.75 miles to the southwest (north of K-96 and west of Webb Road). Neither one of these structures are located in the target service area in a way that will effectively address the company's service delivery objectives.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; agriculture
SOUTH: RR Rural Residential; agriculture
EAST: RR Rural Residential; agriculture
WEST: RR Rural Residential; agriculture (City of Bel Aire)

PUBLIC SERVICES: The site does not have access to sewer or water services, nor does the use need them. Access to the site is via Greenwich, which is a paved road.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita-Sedgwick County Comprehensive Plan depicts this site as located within the City of Wichita's "2030 urban growth area." This category of land use is intended for land that is located on Wichita's urban fringe, but it is anticipated that municipal services will be extended within the planning period, more intense development requests will be made and the property will be annexed. The Unified Zoning Code requires wireless facilities to be setback one foot for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. The *Wireless Communication Master Plan* contains location and height guidelines, design guidelines and co-location requirements that have been incorporated in the Wichita-Sedgwick County Unified Zoning Code as Supplemental Use Regulation g. In general, the wireless plan promotes a wireless system that minimizes the height and number of support structures necessary to provide effective wireless services.

RECOMMENDATION: The main focus of the "Wireless Communication Mater Plan" is to encourage effective wireless service while minimizing the number and height of support towers, and the visibility of the equipment needed to provide the service. The plan includes design guidelines that indicate: co-location is preferred to new construction; the character of the area should be preserved as much as possible; minimize the height, mass or proportion of the facilities and minimize the silhouette presented by the support structures and antenna arrays. To that end a monopole support structure has generally been found to be more consistent with the plan's recommendations than a lattice tower. The plan states that monopoles are favored over lattice-type structures to a height of at least 150 feet. The request is for a 195-foot tower, but this area is adjacent to the City of Bel Aire, and is located within the City of Wichita's projected urban growth areas. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following Conditional Use restrictions:

- A. All requirements of Section III.D.6g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a monopole with a maximum of 195 feet in height and shall not be lighted unless required by the FAA.
- D. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures: for the proposed facility, and shall comply with all FAA conditions of approval. The applicant shall submit a copy of FAA approval to the MAPC and County Code Enforcement prior to the issuance of a building permit.
- E. The site shall be developed in general conformance with the approved site plan and elevation drawings. All improvements shall be completed before operational.
- F. The site shall be developed and operated in compliance with all federal, state and local rules and regulations.
- G. If the Zoning Administrator finds that there is a violation for any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are zoned RR Rural Residential and primarily used for agricultural purposes. The character of the area is rural but increasing development pressure due to its proximity to the cities of Wichita and Bel Aire is anticipated. At some not too distant point in time this rural area will be annexed into a city.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential and is currently used for agriculture. The site could continue to be used for agricultural uses or for large-lot residential uses permitted by the RR district or other uses permitted by right in that zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on properties in the area should be minimized by the recommended conditions of approval.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: According to the applicant, approval would improve wireless services specifically for Cingular customers and

for other public carriers needing to improve service in the area who could co-locate on the proposed wireless facilities. Denial would presumably cause the property owner a loss of income and potentially limit wireless service in the area identified as being deficient in service.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita-Sedgwick County Comprehensive Plan depicts this site as located within the City of Wichita's 2030 urban growth area. This category of land use is intended for land that is located on Wichita's urban fringe, but it is anticipated that municipal services will be extended within the planning period, more intense development will occur and the property will be annexed. The Unified Zoning Code requires wireless facilities to be setback one foot for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. With a monopole the application would comply with adopted policies.
6. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed facility does not detrimentally impact community facilities.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (10-0).

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5. **Case No.: CON2005-37** – Catholic Diocese of Wichita (H. Pat Malone) / Mental Health Association of South Central Kansas (Eldon Thompson) Request Conditional Use for community assembly on property zoned "TF-3" Two-family Residential on property described as;

Odd Lots 1 through 47, inclusive, on Chautauqua Avenue and Even Lots 2-48, on Erie Avenue, Girard Addition, Wichita, Sedgwick County, Kansas. Generally located Southeast corner of Erie and 14th Street (1432 N. Erie).

BACKGROUND: The application area is 3.78 platted acres that are located southeast of the intersection of Erie and 14th Street at 1432 North Erie, and is zoned TF-3 Two-family Residential. The Holy Savior church, which includes space that was at one time used for a church school, is located on the site. The church school that formerly existed at Holy Savior has been transferred to another church. The Mental Health Association of South Central Kansas provides psychosocial counseling and guidance services throughout south-central Kansas. They would like to provide psychosocial services to special needs children, grades K-12, at the Holy Savior church. During the school year, the Mental Health Association indicates they would provide serves to approximately 20 children per day, normally between the hours of 3:30 P.M. and 8:00 P.M. During the summer months their client load could be as high as 120 children a day between 8:30 A.M. and 3:30 P.M. The children will be brought to the church by their parents or the Mental Health Association will provide transportation. Most of the children served are from USD 259.

All surrounding property is zoned TF-3 Two-family Residential and is used for residential purposes. The church owns the entire block located between Erie and Chautauqua and 12th and 13th streets. So additional church property directly abuts the application area to the east and south.

If the church school still existed at this site this application would probably not be required since public schools and private schools with curriculums similar to public schools are allowed by right in residential zoning districts as the counseling services would most likely be considered as ancillary activities to school activities. Lacking the church school the Office of Central Inspection determined this application was necessary.

CASE HISTORY: Girard Addition was platted in 1887.

ADJACENT ZONING AND LAND USE:

NORTH: TF-3 Two-family Residential; residential
SOUTH: TF-3 Two-family Residential; residential
EAST: TF-3 Two-family Residential; residential
WEST: TF-3 Two-family Residential; residential

PUBLIC SERVICES: All typical public services are available to the site. Erie and 14th streets are local serving residential streets.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide depicts this location as appropriate for "urban residential" uses. In addition to residences, this designation includes elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The church facilities located within the application area may be used by the Mental Health Association of South Central Kansas or a similar service provider to provide psychosocial services to special needs school children in grades K-12.
2. The maximum number of children to be served by this Conditional Use shall be limited to the capacity of the facility as established by the Fire Marshal or other fire or building code official, as appropriate.
3. Violation of any conditions of approval of this Conditional Use may result in the nullification of approval for this Conditional Use.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the application area is zoned TF-3 Two-family Residential and is used for residential uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned TF-3 Two-family Residential and developed with a church and church school and other church related uses. The property could continue to operate as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request should not detrimentally affect nearby property owners to any greater extent than when the church school was in operation. The zoning code permits schools by right in residential districts and this use should exhibit land use characteristics similar to a school since the client population is restricted to school age children, K-12. Even at its peak proposed use during the summer, the impact of the proposed use should be no more detrimental than that caused by the school.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would force the applicant to look for another site, and limit the applicant's ability to provide these type of services. This activity will also more fully utilize existing facilities located in the central city.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with adopted plans in that in addition to residences, the urban residential land use designation includes elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses.
6. Impact of the proposed development on community facilities: None identified, traffic may increase over current levels but not beyond the capacity of existing facilities to accommodate or of levels experienced in the past.

ALDRICH In this report it says that most of the children served are from USD259. Are these students that have gone to the public schools and now they are going to a private school? Or has this been a service strictly for the private school? Has any member of USD259, or the Board of Education been notified for their input on this application?

MILLER No, I have not heard anything from them and they probably were not on the notification list. I assume Mental Health Association is working with them so they would be able to address question.

JOHNSON Dale, I am curious if the questions that Commissioner Aldrich has would make any difference in the Conditional Use application?

MILLER You are free to factor in whatever you think is appropriate. Legally, as far as I can tell, USD259 would have nothing to do with the request. My understanding is that these are children that happened to be going to USD259 and these services are available. They need the services, and this location happens to be the place they are going to do it. So I don't know that it is actually a USD 259 service, it is just that the client base, the largest number of clients come from USD259.

DARIAN ROHR, Mental Health Association, 555 N. Woodlawn Ste 3105, Wichita, KS 67208 What questions do you want me to clarify?

ALDRICH I am wondering if the School Board or USD259 have been notified for any of their input on this, if this is pertaining to the children K-12 that are attending the public school system.

ROHR This is not a school. It does not have anything to do with education within USD259. This is a mental health service. This is a children's psychosocial group for severely emotionally disturbed children. Several of our children come from USD259 District.

ALDRICH Is there any funding involved from the school system for this service?

ROHR No, it is a Medicaid service.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried (10-0).

6. Case No.: CON2005-29 – Meitner Family Trust (Owner/Applicant) Gregory G Meitner (Agent) Request Conditional Use for Parking Area, Ancillary on property zoned "SF-5" Single-family Residential on property described as;

The South Half of Lot 4, Robson Heights Addition, Wichita, Kansas, Sedgwick County, Kansas. Generally located North of 31st Street South, east of Seneca Street, on the north side of Diane Street.

BACKGROUND: The applicant requests a Conditional Use to allow ancillary parking on the south half of Lot 3, of the Robinson Heights Addition, which is zoned "SF" Single-Family Residential. The 0.23-acre site is located approximately 557.5-feet north of 31st Street South and 135.9-feet east of Seneca Street, on the north side of Diane Street. An existing 5,080-square foot retail/office building, abutting the site's west side, will use the ancillary parking. The 140-foot (x) 70-foot subject site is currently not developed. A Conditional Use is required for ancillary parking in the "SF-5" zoning district. Ancillary parking areas are subject to the Supplementary Use Regulations contained in Art.III, Sec. III-D.6p of the Unified Zoning Code.

The applicant's site plan shows 23 parking spaces, including two handicap spaces, and a 24-foot drive, which is per City Standards. The site plan shows parking and circulation inside the lot's "SF-5" 25-foot front setback line. Neither is allowed per Art.III, Sec. III-D.6p(3) of the UZC, however the applicant may apply for an Administrative Adjustment that can reduce the front setback to 8-feet. Landscaping and solid screening are shown along the site's north and east property lines where the proposed parking lot would abut residentially zoned properties. Section IV-B.3.a. of the UZC requires solid screening along interior and rear yards of nonresidential uses when abutting or adjacent to residential zoning. Section III-D.6p(6) requires landscaping per the Landscape Ordinance. There is no proposed lighting on the site; the applicant proposes using the existing lighting from the abutting retail/office building to provide light onto the site's proposed parking lot. To get a building permit for the parking lot the applicant is required to lot split.

The subject site and the lots east and north of the site are zoned "SF-5". The northern lots are developed as single-family residences. The subject site, the eastern abutting and the next adjacent eastern lots are not developed. The subject site and the previously mention two eastern lots were originally part of their abutting northern lots, but were split from their north halves by the owners selling the south halves. These lots are all part of the Robinson Heights Addition, all which are still in their original configurations, with the exception the subject site and the two eastern lots. The Robinson Heights Addition consist of 31 lots, of which 29 of the 0.45-acre lots are zoned "SF-5" (the two lots with Seneca Street frontage are zoned "LC" Limited Commercial) and are developed with single-family residences. The developed half street ROW of Diane Street, abuts the south side of the subject site and the previously mention two eastern lots. The half street Diane ROW was created when the adjacent south tracts fronting 31st Street South were platted for development. Diane Street is a paved 30-foot wide, 320-foot long city street, which intersects with a paved 20-foot alley that runs south to its intersection with 31st Street South. Development south of the site includes a Walgreens and a small retail strip.

CASE HISTORY: The subject property is platted as part of the Robinson Heights Addition, which was recorded July 26, 1950.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residences
SOUTH: "LC"	Walgreens drug store, small retail strip,
"SF-5"	church
EAST: "SF-5"	Undeveloped lots, single-family residences
WEST: "LC"	Office – retail building, vehicle repair limited

PUBLIC SERVICES: All municipal services and utilities are available. Access is via Diane Street, a paved, 30-foot wide, half-street right-of-way. This improved portion of half-street ROW is approximately 320-feet long and intersects Seneca Street on its west side and a paved 20-foot alley on its east side. This alley does not extend north of its intersection with Diane but goes south 250-feet and intersects 31st Street South. Both Seneca and 31st are four-lane arterials with turn lanes at this location. There are no CIPs for Seneca Street north of 31st Street South. There is a 247.5-foot unimproved portion of Diane east of its intersection with the alley, which was created by the platting of the Southwest Baptist Church Addition in 1968.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan indicates that the subject property is appropriate for "Urban Residential" development. This category reflects the full diversity of residential development densities and types typically found in a large urban municipality. Types of development include detached single-family residences, semi-detached residences, zero lot line residences, patio residences, duplexes, townhouses, apartments, condominiums, mobile home parks, assisted living, congregate care and nursing homes, elementary and middle schools, churches, playgrounds, parks and other similar residential serving uses. The MAPC's informal policy of supporting expansions of existing businesses at current locations rather than requiring relocation indicates the requested parking lot is supported by past policy.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends that the Conditional Use request for Ancillary Parking on the south half of Lot 3, Robinson Heights Addition be APPROVED, subject to a lot split within a year and the following conditions:

1. The ancillary parking area shall be developed in general conformance with the approved site plan and an approved landscape plan, including solid screening along the site's east and north sides and shade trees every 40-feet along the site's east and north sides.
2. If pole lighting is provided it must comply with Art.IV, Sec.IV-B.4 and be to taller than 14-feet in height and located no closer than 25-feet from abutting residential zoned properties.
3. The ancillary parking area shall be developed in conformance with the requirements of Art. III, Sec.III-D.6.p. of the Unified Zoning Code. The applicant shall apply for an Administrative Adjustment to reduce the front setback to allow parking up to 8-foot of the front setback.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by single-family residences, with retail uses along the Seneca Street and 31st Street South frontages. The surrounding zoning is "SF-5" and "LC". Parking areas for office uses are commonly found in such areas; therefore, the ancillary parking lot is consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: In 1950 the subject site and the two previously mentioned eastern abutting and adjacent lots were originally part of three 0.45-acre lots, as platted in the

Robinson Heights Addition. Later development south of the Robinson Heights Addition (site), along the north side of the 31st Street South frontage, east of Seneca Street, triggered the platting (1958-1986) of several of those properties south of the site. A requirement of the platting for those properties along 31st, was the dedication of 30-feet of half street ROW for Diane Street. Part of Diane Street exists as a paved half street ROW, along the south sides of the subject site and its western abutting retail/office building and the two eastern abutting and adjacent lots. This improved half street Diane ROW has created access to the site, but has made the site and the other two lots east of the site less attractive for single-family residential development. Any single-family residence developed on these three lots would face the unscreened Walgreens and the unscreened small retail strip south of them across Diane Street. To pull a building permit on these three lots would require lot splits.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed parking lot, with the conditions of the Conditional Use will have minimal detrimental affects on nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested zoning change is in conformance with the *Comprehensive Plan* "Wichita Land Use Guide"
5. Impact of the proposed development on community facilities: This zone change will increase traffic on the half street ROW of Diane Street and the 20-foot paved alley that intersects Diane Street and 31st Street South.

DOWNING For the Commission if you will turn to Item 6, there is an error that the Commission needs to know about. It is on page 3, at the bottom of the page, Condition 2, should read "and **not** be taller than 14-feet."

MOTION: To approve subject to staff recommendations with the one correction to Condition #2 that the pole lighting **not** be taller than 14-feet in height.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (10-0).

7. **Case No.: CON2005-38** – Edward and Alice Fox (owners) Request Sedgwick County Conditional Use for recreation and entertainment, outdoor (cricket field) on property zoned "RR" Rural Residential on property described as;

Tract 16: From the Southwest corner of the Southeast Quarter of Section Four (4), Township Twenty-nine (29) South, Range One (1) West of the 6th P.M., Sedgwick County, Kansas, N 00 degrees 16' 17" E, along the West line of said Southeast Quarter, a distance of 1082.70 feet to the point of beginning, thence N 00 degrees 16' 17" E, a distance of 665.39 feet; thence S 89 degrees 42' 49" E, parallel with the South line of said Southeast Quarter, a distance of 659.48 feet; thence S 00 degrees 28' 16" W, parallel with the East line of said Southeast Quarter, a distance of 665.39 feet; thence N 89 degrees 42' 49" W, a distance of 657.16 feet to the point of beginning.

All that part of the above-described tract 2 lying within 75 feet of a point 66.23 feet North of the Southeast corner of said described tract, being reserved for road purposes. Commonly known as: 7700 Duis Dr. Haysville, KS. Generally located 1/3 mile west of 71st Street West (Ridge Road) and 1/4 mile north of 79th Street South (7700 W. Duis Dr.).

BACKGROUND: The applicant is requesting a Conditional Use for Outdoor Recreation, for a cricket field, on a six-acre "RR" Rural Residential zoned site, generally located west of 71st Street West and north of 79th Street South. The proposed use is a cricket field, a bat and ball sport common in Britain and British colonies. Outdoor Recreation is a Conditional Use in the RR district. The unplatted parcel is under the same ownership as the parcel to the east, which is developed with a single-family residence and outbuildings. All surrounding property is zoned RR; property to the west is used for agriculture, property to the north, south, and east is used for large lot single-family residences ranging in size from four to six acres. The nearest residence is over 200 feet from the proposed cricket field site.

The applicant indicates that he intends to host cricket matches with visiting teams, some come from out of town. The applicant indicates that many teams consist of international college students who carpool to matches in a limited number of vans or cars. The attached site plan indicates a single, circular cricket field, a parking area, a 30x50 building, and a proposed 60x120 building. The buildings are proposed for equipment storage, changing, restrooms, and pavilion space. No spectator seating is indicated on the proposed site plan. The *Wichita-Sedgwick County Unified Zoning Code* (UZC) requires one parking space per three spectator seats at an athletic field, plus one per 1,000 square feet of field area, the proposed field is over 100,000 square feet. This parking space to field ratio may be excessive, as only two teams of 11 members each play on the single large field, and no spectator facilities are provided. A single cricket match takes six hours; the applicant has not indicated a desire for field or parking lighting.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "RR"	single-family residence
SOUTH: "RR"	single-family residence
EAST: "RR"	single-family residence
WEST: "RR"	agricultural fields

PUBLIC SERVICES: This site is located at the end of Duis Drive, an unpaved local road with a 70-foot right-of-way. The site is served with on site water and sewer (a lagoon). The proposed Outdoor Recreational use would use the same on-site water and lagoon as the residence under the same ownership.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural."

The UZC provides for Outdoor Recreation as a Conditional Use limited to tennis courts, miniature golf, and similar uses that the Planning Commission has determined will not produce undue noise or attract large numbers of spectators. The UZC goes on to apply standards for the Outdoor Recreation Conditional Use to include lighting, noise, driveway surfacing, the option to establish operating hours, maintenance requirements, and a standard stating that street access shall be contiguous to an arterial or expressway. Because this application does not meet the street access standard, this request will require governing body approval according to the UZC section V-D.6.

RECOMMENDATION: The county engineering staff contacted planning staff with a concern regarding increased traffic on an unpaved local road. The applicant has hosted cricket matches on this site without complaint from neighbors; he did not become aware of the need for a Conditional Use until he filed for an out-building building permit. This application generates the concern of potentially large numbers of vehicles and people accessing this residential area via an unpaved road. This concern can be mitigated with conditions that limit the number of parking spaces on the site, and limit the total number of vehicles (other than the owners) permitted on the site. Events on the site will generally be on weekends, the proposed conditions should limit the impact of this use to that of a normal social event at a residential location. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to an updated site plan, to be approved by the Planning Director, limiting parking spaces on the site to 30.

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. The Conditional Use shall be subject to all requirements of the Unified Zoning Code.
3. Development and maintenance of the site shall be in conformance with the approved site plan.
4. The Conditional Use for Outdoor Recreation shall be for the use of a cricket athletic field and supporting infrastructure only.
5. No lighting of the field or lighting of parking lots shall be permitted.
6. The site plan shall limit the Conditional Use to 30 parking spaces of an all-weather surface consistent with the surface of Duis Drive. Parking for the Conditional Use must be within designated spaces.
7. A maximum of 30 vehicles (other than those belonging to the property owner) may be permitted on the site at any one time.
8. No sound amplification systems shall be permitted on the site.
9. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned RR and used for agricultural purposes or large lot single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture and large lot residential uses. The site could be used for a single-family residence or agriculture without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed cricket field could have negative affects upon the residences to the south and east through increased traffic on Duis Drive, noise, and light. These issues should be mitigated through the proposed conditions limiting additional vehicles on the site to 30, and prohibiting outdoor lighting and sound amplification.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in general conformance with the *Wichita-Sedgwick County Comprehensive Plan*. The request does not meet all the standards of the *Wichita-Sedgwick County Unified Zoning Code*, and must therefore be reviewed by the governing body.
5. Impact of the proposed development on community facilities: The requested Conditional Use will generate increased traffic on the unpaved Duis Drive. Limiting the Conditional Use to a total of 30 vehicles on site, other than those belonging to the property owner should mitigate this negative impact. The 30-vehicle limitation should generate no more of an impact than a common social event within a residential area.

JACQUELINE MORNINGSTAR (a/k/a - Donna Tibbits), 7620 Duis Drive, Haysville, KS 67060I would like to speak in favor of this application. I own the three lots to the east of this proposal. The cricket field doesn't cause any problems for the neighbors.

Most of the cars that are there are 7-8. He said there has been 9 there at one time but I have never noticed that many. If the MAPC thinks there is a problem with the cricket field and the traffic coming and going maybe they would authorize a speed limit sign on our road because right now it is rural residential, and there is no sign and some people go 55 mph and some 30 mph.

HILLMAN I would ask the MAPD staff to communicate with the County Inspectors and see if they need a speed limit sign out there.

SCHLEGEL May I suggest that rather than it coming from the MAPC, or the Planning Staff, if the neighbor would contact the Sedgwick County Public Works Department and simply make a request of them to post a speed limit sign. I think they would look into it.

TIBBITS I know they have a speed limit sign on Singleterry Street which is the street to the north of me.

JOHNSON If Sedgwick County Public Works does not do anything; I would get a hold of the County Commissioner.

MOTION: To approve subject to staff recommendations.

JOHNSON moved, **MITCHELL** seconded the motion, and it carried (10-0).

8. **Case No.: ZON2005-36** – Angela J. Ngo Request Zone change from “GO” General Office to “NR” Neighborhood Retail on property described as;

Lot 1 except the West 68 feet, Dan Morgen Addition, Wichita, Kansas, Sedgwick County, Kansas. Generally located 200 feet west of Battin, north of east Central.

BACKGROUND: The applicant is seeking NR Neighborhood Retail zoning to make the property located 200 feet west of Battin and north of Central attractive to a broader range of tenants than allowed by the current GO General Office zoning. The application area is .52 of an acre in size. The subject site is platted as the Dan Morgen Addition, and is developed with two office buildings and onsite parking. The applicant's ownership has one access point, and shares a second access point with the ownership located to the west.

Surrounding land is zoned SF-5 Single-family Residential (north), B Multi-family Residential (south) and GO General Office (east and west), and developed with offices and residences. The closest commercial zoning to the application area is Limited Commercial zoning located approximately 219 feet to the west. Central Avenue is a major four-lane east-west traffic way through east central Wichita, from Main to Rock Road, carrying about 22,000 average daily trips.

The GO and NR zoning districts share the same signage controls. The primary land use difference between the two districts lies in the fact that the NR district allows retail sales and restaurant uses as a use “by right” while the GO district does not permit these uses. Special NR district regulations restrict individual commercial uses to a maximum size of 8,000 square feet. Supplemental use regulations limit restaurants to a maximum size of 2,000 square feet, and they cannot provide drive-up window service or in-vehicle food service. Outdoor commercial storage or display is not permitted in the NR district. Compatibility setback standards are required. The existing buildings are setback approximately 34 feet from the north property line. Twenty-five feet is the maximum compatibility setback required.

CASE HISTORY: The site's current GO General Office zoning was approved in 1985 (Z-2656), as was the plat of the Dan Morgen Addition. The Dan Morgen Addition has a platted 20-foot building setback line and has access control allowing two openings to Central.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; single-family residences
SOUTH: B Multi-family Residential; single-family residences
EAST: GO General Office; Office
WEST: GO General Office; Office

PUBLIC SERVICES: Central Avenue, at this location, has a 45-foot half-street right-of-way, is developed as a four-lane paved roadway and carries an average daily traffic volume of 21,795 and 22,398. The 2030 *Transportation Plan* recommends that Central Avenue between Oliver and Woodlawn will need to be a five-lane facility. A Capital Improvement Project is scheduled for Central in 2006. Office uses tend to generate 11 average daily trips per 1,000 square feet of floor area, whereas retail uses can generate 42 average daily trips per 1,000 square feet of floor area. This application area, developed with a floor area equal to 35 percent of the lot area could generate up to 333 average daily trips. Office uses developed at that same intensity could be expected to generate 87 average daily trips. Sewer and water services are available.

CONFORMANCE TO PLANS/POLICIES: The 2030 *Wichita Functional Land Use Guide*, 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as “local commercial.” Commercial Objective III.B encourages future commercial area to “minimize detrimental impacts to other adjacent land uses.” Strategy III.B1 seeks to channel new strip commercial uses to areas identified on the *Wichita Land Use Guide*. Strategy III/B2 seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. Commercial Locational Guideline #3 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: From a land use perspective, many of the city's lots created before the 1960s that front arterial streets have become problematic. Many of these lots were developed as residences. As the original two-lane arterials experienced greater and greater traffic volumes, they were expanded to four-lane roads. The expanded roadway moved the traffic closer to the front of the buildings. The increased traffic created more noise, and as the community became more of a seven day a week, 24 hours a day

city, the traffic noise lasted longer, made it more difficult for residents to back out on the arterial, families were uncomfortable with their kids playing the front yards of homes that front high traffic streets. Residences fronting arterial streets became less desirable when compared to other residential lots on residential streets. As the traffic volumes increased, these properties became attractive to office and business uses that need locations with higher traffic volumes, which put pressure on the residents to sell out to interests that needed more intensive zoning. Generally these lots are only a half-block deep with very narrow width. Rarely does the ownership of these properties exceed two or three lots so if the site is to be re-developed the site layout options are limited from the beginning with respect to setbacks and access. Often they back up to viable single-family residential uses that don't want more intensive uses as neighbors. As a result, the city has several arterial streets that have extended nonresidential uses lining their borders. The application area is one of these areas. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land surrounding the application area is zoned SF-5 Single-family Residential (north), B Multi-family Residential (south) and GO General Office (east and west), and developed with offices and residences. The application area and neighboring properties all take their access from Central Avenue which is a major four-lane east-west traffic way through east central Wichita, from Main to Rock Road, carrying about 22,000 average daily trips. The properties fronting Central in this area have long been in transition as many of the original homes have been converted to nonresidential uses or have been torn down for office and retail uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Adjoining properties to the east and west are zoned GO General Office, while the property to the north is zoned SF-5 Single-family. Approval of the NR request will introduce retail commercial uses not currently allowed. Retail uses typically generate more daily traffic than office uses. The zoning code requires zoning screening between residential and non-residential zoning. That screening should be in place now. The existing buildings meet compatibility setback requirements.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably cause an economic hardship to the applicant in that commercial tenants would not be able to utilize this location. Approval would provide additional retail tenant space.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application is in substantial compliance with adopted policies.
6. Impact of the proposed development on community facilities: NR uses can be expected to increase the volume of traffic using the site, however there is a CIP project to improve Central, and those improvements are expected to be able to address projected traffic volumes.

DUNLAP I have been contacted from property owners in the neighborhood but I have not made a decision either way on how I will vote.

MILLER I inserted a detailed introduction to the problem in the recommendation section of the staff report describing how some of these type uses have left us with a dilemma because of the way the lots were developed in the past, and how they have been redeveloped. The Planning Commission does have the policy of supporting the expansion and promotion of existing uses, and staff is recommending approval of the application.

ALDRICH The District Advisory Board I considered this request on 10-3-05, do we have their report?

MILLER They did not consider the request.

MITCHELL Dale, do you know if the City has acquired all of the right-of-way they need to widen Central at this location?

MILLER I don't know that I can answer that question. I was hung up on the traffic counts, because I think you have a letter from someone that is protesting this request. I think essentially the only protest that we could act on was the indication that they thought that Central was already overloaded from a traffic standpoint. I spent more time putting the traffic volumes in there than I did looking at the other concerns.

MITCHELL Should we recommend the widening of Central right-of-way as part of this zoning case since it is already platted.

MILLER I would have to get with Traffic Engineering and see. I know there is a CIP project scheduled for Central in 2006.

MITCHELL I think it is slated for next year, but I would guess the City has already acquired the right-of-way.

MILLER I would assume so too, possibly the applicant knows.

NGUYEN NGO My wife and I own the three buildings that we are asking to get rezoned. When we purchased the property two years ago they had already given up the right-of-way to the City. As you notice the sign in this slide, the sign is almost inside the curvature of the building and the reason that was is because we don't have the right-of-way past the edge of that sign. I was told the widening of the street would be done at the beginning of this year and we had the sign put up last year when we moved in.

We were told when we purchased this property that this was an area where we can have a beauty industry shop, and our old landlord that we moved away from to here has informed us, and the MAPC that we are operating illegally. There has been some

bad blood between us and that is who called in the complaint. Once we found out that we were not operating legally, I began the process to conform to the zoning. If the MAPC approves the zoning, nothing will change other than we will be operating legally.

We bring a lot of economic activity to the area. At 5002 E. Central, there is a Taco Shop, and I have a nail school at 5008 E. Central and I have 10-12 students come through there a day, and they spend a lot of money at the Dillon's, Q-Trip, and the Taco Shop. They never spent that money there before the move.

I have plans to clean up the parking lot to make it better as soon as the City moves the street in so I know where to start my project. The buildings are in good shape. I pick up all of the trash on the Central. We mow the yard there, etc.

DUNLAP I don't disagree with you that you are spending money at the local eateries but you were eating somewhere else anyway, so that is really not an important point to me. I would like to know, according to this letter we received today, you are leasing space to someone else?

NGO No, I have not leased any space to anybody yet. I do not have a contract with anybody. I have had some people store items there for the purpose that if I get the zoning I can go ahead and lease out my third building. That letter is misleading. My business is a salon and a school, and the salon has independent contractors who lease a chair if that is what you mean.

DUNLAP I am looking at the retail operation. You don't have another retail operation going on at the site?

NGO I certainly do not. I have someone storing stuff there until I get the go ahead to say that we are a legal use, and once I am legal then I will get them to sign a contract, otherwise they will have to move. I am allowing them to store their products there, hoping for an approval today.

DUNLAP Dale, the letter that we have states that it was an "ok" from the Planning Department, for this and I question that statement. You don't normally make "ok" of non-complying items?

MILLER I had a phone conversation with the author of that letter, and pointed out that we don't have any enforcement authority, and that would have to go through the Office of Central Inspection. Also, they would have to make any decision about whether someone needs to be shutdown, or allowed to operate until they got this resolved. Whatever has happened has been strictly done through Office of Central Inspection. That statement is a misinterpretation on the author's part or an outright lie.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **ALDRICH** seconded the motion.

DUNLAP I am not going to support the motion or the change of zoning because I object to being forced into it by an existing condition. I don't agree that simply because the man bought the property we should change the zoning. He knew what he was buying when he bought the property and the zoning was not right, and he went ahead and did it. Obviously a successful businessman knows what he is getting into.

MOTION carried 9-1. (DUNLAP opposed)

9. Case No.: CON2005-40 – Old Y Holding, LLC, c/o Casey Bachrodt Request Conditional Use for manufacturing, limited, on property zoned "LC" Limited Commercial on property described as;

Lot 1, East Branch YMCA Addition, Wichita, Sedgwick County, Kansas. Generally located South of Douglas Avenue & east of Rock Road.

BACKGROUND: The applicant is requesting a Conditional Use for Manufacturing, Limited for Lot 1, East Branch YMCA Addition. The developed and partially vacant/under used 2.28-acre site is located approximately 300-feet east of Rock Road and 325-feet south of Douglas Avenue. The site is currently zoned "LC" Limited Commercial. The applicant proposes to use the main building for an apparel embroidery, screen-printing and wholesales business, which is considered manufacturing, limited, per Art.II, Sec.II-B, 8(f) of the Unified Zoning Code (UZC). Manufacturing, limited in the "LC" zoning district can be considered for a Conditional Use, per Art.III, Sec.III-D, 6(m) of the UZC.

The site used to be the east side YMCA. The site's buildings (2), the outdoor pool, parking lot, fences and grounds are in need of maintenance and repair. The main building is approximately 17,000-sqaure feet in size and is the building the applicant proposes to use for his business. The applicant proposes to eventually fill the pool and tear down the pool house. The site is barely visible from Rock Road and Douglas Avenue. The site is located behind an apartment complex (zoned "LC") on its north side and various office, retail and fast food buildings (all zoned "LC") on its west side. Platted access onto the site is off of Douglas Avenue, but you can get to the site off of Rock Road. Single-family residences in "SF-5" Single-family Residential zoning abut the site's south and east sides.

The applicant's business is embellishing garments and apparel by using sewing machines to embroidering them or using ink to screen-print them. Sales are to other businesses, with any retail sales being incidental. Delivery of the products is by light trucks, vans or cars. There is some on site storage of products. The business employs 19-23 people on a first shift type of schedule.

The five supplementary regulations, Art.III, Sec.III-D, 6(m), for manufacturing, limited, in the "LC" zoning district are:

- (1) The gross floor area of the building housing the limited manufacturing use shall not exceed one square foot of floor area to three square feet of lot area.
- (2) The minimum setback of any building from any property shall be 30-feet.

- (3) No outside storage.
- (4) All paving and loading areas shall be paved with concrete or asphalt and must not cover more than half of required open space.
- (5) The maximum number of employees on any one shift shall not exceed 15 per acre of lot area.

If the applicant confines his business to the main building, he is in compliance with #1. The applicant will have to request a waiver from City Council on the setback requirement, because the developed site an existing structure that appears to be less than 20-feet from the south and east property lines. The parking lot is in need of maintenance and repair, but appears to be large enough for the applicant to be in compliance with #4.

CASE HISTORY: The East Branch YMCA Addition was recorded with the Register of Deeds September 26, 1972.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Limited Commercial	Apartment complex
SOUTH: "SF-5" Single-family Residential	Single-family residences
EAST: "SF-5" Single-family Residential	Single-family residences
WEST: "LC" Limited Commercial	Fast food, office, retail

PUBLIC SERVICES: Rock Road is 6-7 lane arterial at his location. Douglas Avenue is a 4 lane arterial at this location. The 2030 Transportation Plan projects no change for these roads and there are no CIPs for these roads at this location. Traffic counts are; 25,482 ATD going north, 12,623 ATD going west, 11, 522 ATD going east, and 26,021 ATD going south. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The site is identified by the Land Use Guide of the Comprehensive Plan as appropriate for "Local Serving Commercial" development. This category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The proposed Conditional Use is in conformance to the Land Use Guide of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use request for manufacturing limited for Lot 1, East Branch YMCA Addition be APPROVED subject to the following conditions;

- (1) The manufacturing, limited, for embellishing garments and apparel by using sewing machines to embroidering them or using ink to screen print them shall be developed in conformance with the requirements of Art.III,Sec.III-D.6.m. of the Unified Zoning Code, with the exception of the setback standards, which must be waived by the City Council.
- (2) The applicant must provide an approved site plan and landscape plan, with landscaping and solid screening per the Unified Zoning Code and the Landscape Ordinance.
- (3) Outside pole lighting shall be no higher than 14-feet tall and shall be located no closer than 25-feet from the property line.
- (4) All applicable zoning and development standards must be met, including parking, internal circulation, loading areas, lighting and signage.
- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The site is tucked in behind established retail, office and multifamily all with "LC" zoning, along the Douglas Avenue – Rock Road intersection. In fact, the Rock Road arterial is one of the most densely developed retail areas in Wichita. The single-family residences, zoned "SF-5", along the site's east and south sides are well established and had possibly been one of the groups that would have used the site's facilities in its original incarnation, the East Side YMCA.
- 2. The suitability of the subject property for the uses to which it has been restricted: Although the site is zoned "LC" it's originally use as a YMCA did not require the type of roadside visibility that is typically desired for retail uses. The existing facility was not built for retail use and conversion to retail use is problematic when the lack of its visibility remains an issue.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested Conditional Use for the manufacturing, limited, for embellishing garments and apparel does not require the desired visibility of your typical retail. Traffic on the site will be less than a retail use due the business operating as a wholesale business, with any retail sales being incidental. Occupation of the main facility by a business that can convert its unique floor area to its needs will bring about much needed maintenance and repair to this site's buildings, parking, screening and yards. The occupation of the main facility, the applicant's future plans to fill the pool and tear down the pool house coupled with the conditions of the Conditional Use will minimize detrimental effects of the proposed use on both the abutting retail, office, apartments and single-family residences.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use for Manufacturing, Limited, on a small scale matches the plan's recommendation for this site.
- 5. Impact of the proposed development on community facilities: Impact will be minimal.

MOTION: To approve subject to staff recommendations.

MCKAY moved, HILLMAN seconded the motion, and it carried (10-0).

10. **Case No.: ZON2005-38** – MDI Corporation (Robert Mies, applicant); Savoy Company (Mark Savoy) Request Sedgwick County Zone change from "RR" Rural Residential to "LI" Limited Industrial on property described as;

Beginning at a point 60 feet south and 20 feet east of the Northwest corner of the Northwest Quarter of Section 33, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas; thence east, parallel with the north line of said Section, 200 feet; thence south, on a line 90 degrees to the north line of said Section, 600 feet; thence west 252.3 feet more or less to a point 20 feet east of the west line of said Northwest Quarter; thence north, parallel with the west line of said Northwest Quarter, 600 feet more or less to the point of beginning, except that part platted as Castor Addition, Sedgwick County, Kansas.

A tract beginning 390.04 feet east of the Northwest corner of the Northwest Quarter of Section 33, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas, said point being the Northeast Corner of Castor Addition, Sedgwick County, Kansas; thence south with a deflection angle to the right of 90 degrees, 560 feet; thence west with a deflection angle to the right of 90 degrees, 175 feet; thence south with a deflection angle to the left of 90 degrees, 100 feet; thence east with a deflection angle to the right of 90 degrees, 418 feet; thence north with a deflection angle to the left of 90 degrees, 660 feet to the north line of said Northwest Quarter; thence west, along the north line of said Northwest Quarter, 243 feet to the point of beginning, except the north 60 feet thereof for road right-of-way. Generally located South of 15th Street South and east of 375th Street West.

BACKGROUND: The applicant is seeking NR Neighborhood Retail zoning to make the property located 200 feet west of Battin and north of Central attractive to a broader range of tenants than allowed by the current GO General Office zoning. The application area is .52 of an acre in size. The subject site is platted as the Dan Morgen Addition, and is developed with two office buildings and onsite parking. The applicant's ownership has one access point, and shares a second access point with the ownership located to the west.

Surrounding land is zoned SF-5 Single-family Residential (north), B Multi-family Residential (south) and GO General Office (east and west), and developed with offices and residences. The closest commercial zoning to the application area is Limited Commercial zoning located approximately 219 feet to the west. Central Avenue is a major four-lane east-west traffic way through east central Wichita, from Main to Rock Road, carrying about 22,000 average daily trips.

The GO and NR zoning districts share the same signage controls. The primary land use difference between the two districts lies in the fact that the NR district allows retail sales and restaurant uses as a use "by right" while the GO district does not permit these uses. Special NR district regulations restrict individual commercial uses to a maximum size of 8,000 square feet. Supplemental use regulations limit restaurants to a maximum size of 2,000 square feet, and they cannot provide drive-up window service or in-vehicle food service. Outdoor commercial storage or display is not permitted in the NR district. Compatibility setback standards are required. The existing buildings are setback approximately 34 feet from the north property line. Twenty-five feet is the maximum compatibility setback required.

CASE HISTORY: The site's current GO General Office zoning was approved in 1985 (Z-2656), as was the plat of the Dan Morgen Addition. The Dan Morgen Addition has a platted 20-foot building setback line and has access control allowing two openings to Central.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residential; single-family residences
SOUTH:	B	Multi-family Residential; single-family residences
EAST:	GO	General Office; Office
WEST:	GO	General Office; Office

PUBLIC SERVICES: Central Avenue, at this location, has a 45-foot half-street right-of-way, is developed as a four-lane paved roadway and carries an average daily traffic volume of 21,795 and 22,398. The 2030 *Transportation Plan* recommends that Central Avenue between Oliver and Woodlawn will need to be a five-lane facility. A Capital Improvement Project is scheduled for Central in 2006. Office uses tend to generate 11 average daily trips per 1,000 square feet of floor area, whereas retail uses can generate 42 average daily trips per 1,000 square feet of floor area. This application area, developed with a floor area equal to 35 percent of the lot area could generate up to 333 average daily trips. Office uses developed at that same intensity could be expected to generate 87 average daily trips. Sewer and water services are available.

CONFORMANCE TO PLANS/POLICIES: The 2030 *Wichita Functional Land Use Guide*, 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as "local commercial." Commercial Objective III.B encourages future commercial area to "minimize detrimental impacts to other adjacent land uses." Strategy III.B1 seeks to channel new strip commercial uses to areas identified on the *Wichita Land Use Guide*. Strategy III/B2 seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. Commercial Locational Guideline #3 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: From a land use perspective, many of the city's lots created before the 1960s that front arterial streets have become problematic. Many of these lots were developed as residences. As the original two-lane arterials experienced greater and greater traffic volumes, they were expanded to four-lane roads. The expanded roadway moved the traffic closer to the front of the buildings. The increased traffic created more noise, and as the community became more of a seven day a week, 24 hours a day

city, the traffic noise lasted longer, made it more difficult for residents to back out on the arterial, families were uncomfortable with their kids playing the front yards of homes that front high traffic streets. Residences fronting arterial streets became less desirable when compared to other residential lots on residential streets. As the traffic volumes increased, these properties became attractive to office and business uses that need locations with higher traffic volumes, which put pressure on the residents to sell out to interests that needed more intensive zoning. Generally these lots are only a half-block deep with very narrow width. Rarely does the ownership of these properties exceed two or three lots so if the site is to be re-developed the site layout options are limited from the beginning with respect to setbacks and access. Often they back up to viable single-family residential uses that don't want more intensive uses as neighbors. As a result, the city has several arterial streets that have extended nonresidential uses lining their borders. The application area is one of these areas. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land surrounding the application area is zoned SF-5 Single-family Residential (north), B Multi-family Residential (south) and GO General Office (east and west), and developed with offices and residences. The application area and neighboring properties all take their access from Central Avenue which is a major four-lane east-west traffic way through east central Wichita, from Main to Rock Road, carrying about 22,000 average daily trips. The properties fronting Central in this area have long been in transition as many of the original homes have been converted to nonresidential uses or have been torn down for office and retail uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Adjoining properties to the east and west are zoned GO General Office, while the property to the north is zoned SF-5 Single-family. Approval of the NR request will introduce retail commercial uses not currently allowed. Retail uses typically generate more daily traffic than office uses. The zoning code requires zoning screening between residential and non-residential zoning. That screening should be in place now. The existing buildings meet compatibility setback requirements.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably cause an economic hardship to the applicant in that commercial tenants would not be able to utilize this location. Approval would provide additional retail tenant space.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application is in substantial compliance with adopted policies.
6. Impact of the proposed development on community facilities: NR uses can be expected to increase the volume of traffic using the site, however there is a CIP project to improve Central, and those improvements are expected to be able to address projected traffic volumes.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (10-0).

The following testimony is after Item 2-1, & Item 10 were approved and after Item 13.

MILLER The people that are still in the audience apparently were here for Agenda Item 10 and did not realize that had been handled, and it will be up to your discretion on what you want to do. I don't know if the agent is still at City Hall or not.

SCHLEGEL Let's ask the City Attorney. Joe, would that have to be a reconsideration motion, since they have already acted on Items 2-1, and Item 10?

JOE LANG, First Assistant City Attorney, Law Department This is a county case. But it would be an observation that generally if you are going to act on an item already passed, someone who voted in favor could move for reconsideration. But in this case since everyone has left, you couldn't change your action, you would have to give new notice and let people come back and have a chance to hear anything new.

SCHLEGEL So the reconsideration would have to be at a future meeting?

LANG You could reconsider it today, but you could not take any action because someone who had been here when you had acted may have left already.

JOHNSON Would we be out of line to ask those in the audience to voice their opinion in favor or opposition of the request, and then the possibility of a reconsideration depending on that?

LANG That would be under your discretion to do.

JOHNSON I mean, if it is something fairly simple then maybe staff could get back with the agent, and maybe when it went to the Governing Body, maybe they could amend it to whatever we did.

DOWNING Who is here to speak on Item 10?

AUDIENCE Two people raise hands.

DOWNING Do you have questions? Or are you just generally opposed?

AUDIENCE Generally opposed.

DOWNING What is your reason for being generally opposed?

JOHN E. TOTTEN, 6200 York, Wichita, KS 67215 I am the property owner, and Judy Hiller is a person that rents and maintains my property for me. It is rural residential right across the road for that portion of that mile. The traffic there at the present time is notorious during the morning, noon, and evening time. Speed limit signs have been put in place and torn down because these people want to go by there at 70 mph, it is a dirt road, and it is very wash-boardy, and it is just a problem. The Township maintains it supposedly, but they don't do a very good job, and this is just going to add to the problems to the residence along that road. Beside, I feel that it will devalue the property because the property will be across from an industrial area.

JUDY HILLER, 1801 S 375th St. W., Cheney, KS 67025 383rd Street West has signs that say "Trucks", but instead of the Cheney residence, the trucks, and MDI workers, using 383rd they go down 375th Street West because they can triple their speed. The Township is trying to do the best that they can do on limited funds to maintain that road. If MDI expands, and we have had discussions with them, they feel like they pay adequate amount of taxes so be it. There are children that live on that 1/2-mile section of road. I fought for a year to get in speed limit signs. They tear down the signs so that no one will know that it is a zoned area, so then I can't get the Sheriff Department to come out and write tickets because the signs are not out. The Township has put the signs up three times, and they are tired of paying for it. The story is the more traffic the worse the road gets. If they are going to zone one side they should zone both of it for everyone's benefit, instead of for just one house. If their employees are going to use that road, as they do, then there should be other means to help maintain the road.

JOHNSON The staff report states the proposed use is the expansion of an existing plastics manufacturing facility. Is there not a plastic manufacturing facility there now?

TROTTON Yes, but they are expanding, and that will be more employees'.

JOHNSON Since it is already an industrial area by doing this, how do you feel that is going to lessen the value of your property since it is already there?

HILLER They are taking a residential house.

JOHNSON I understand that, it is hard for me to understand how it is going to change when there is already an industrial use being used right in that area.

TROTTON It will expand that industrial. I have owned the house for nine years and the traffic is a lot worse. My biggest complaint is the traffic and the maintenance of the road. You can get into a different Township, and they have it maintained. There is only a one-mile stretch in that area and that Township is not maintaining it properly.

JOHNSON Where is this in relation to US-54 HWY? What Township is taking care of the mile?

HILLER The Grand River Township. I have talked to Tom Winters and tried to get the county to take over that area out there.

JOHNSON What was his answer?

HILLER A song and dance for about three years now.

JOHNSON We have already taken action on this case. This case will go to the County Commission and you can have public opinion at that meeting, and they make the final decision.

HILLER We were here about 10 minutes prior to 1:30 p.m. today, but we were told that there was 10 Agenda Items ahead of us, so we thought we had plenty of time.

JOHNSON This is just a recommendation that we make to the County Commissioners; they will make the final decision. Dale, can you get a hold of the agent and let them know that there is some opposition prior to this going to County Commission?

MILLER Yes.

SCHLEGEL If you don't want to do the reconsideration, if they leave their names and addresses with us, we will notify them when we will have the item ready to go to the County Commission.

ALDRICH Dale, what did Cheney Planning Commission do on October 3rd?

MILLER It was a unanimous approval.

MITCHELL One of the reasons that I had asked for the plat to be considered with the zoning was, Item H, on the Subdivision recommendation states "The plat denotes three openings along 375th Street West and two openings along 15th Street South. County Engineering has approved two existing openings along 15th Street South. Complete access control shall be dedicated to 375th or a guarantee submitted for paving." My question for the County Engineer would be are we talking about the full half mile of paving or just adjacent to this property? I think there is an unresolved issue there that I am sure the County Commission will be able to resolve.

TROTTER It is three miles of paving that needs to be done. (Indicating on the map, explaining the Townships).

HILLER When MDI petitions to get City Water they got it, but the people living on 375th Street didn't. Now you are talking about cementing that area, it will probably turn out the same.

DUNLAP I appreciate them speaking, but I am not hearing a zoning issue. I am hearing maintenance and enforcement issues, and that is not our purview.

DOWNING I think we are at the point where I would like the MAPC to decide whether they want to go back and rehear this, and go back through that set of loops and get there legally, or whether they want to stay with the action that has already been taken and let County Commissioner consider the case.

MCKAY I think that the County Commission will send the case back to us if they feel we have done these people injustice.

DOWNING Do we need a motion?

SCHLEGEL No.

11. **Case No.: CON2005-39** – Fran-Mar Investments, Inc. (Mark Y. Blum, Jr., owner), Terry D. Baker (lessee) Request Conditional Use to permit a tavern or drinking establishment on property zoned "LC" Limited Commercial located within 200 feet of residential zoning on property described as;

Beginning 35 feet West of the Southeast corner of Reserve B; thence North 122 feet; thence West to the East line of the St. Louis and San Francisco Railroad right-of-way; thence Southwesterly to the North line of 13th Street; thence East 215.99 feet more or less to the point of beginning. Generally located 3906 East 13th Street, Cedar Saloon & Eatery

BACKGROUND: The application area is developed with a small strip retail commercial center (approximately 5,400 square feet) that is located north of 13th Street and west of Vesta, and is zoned LC Limited Commercial. One of the businesses located within the center is known as the Cedar Saloon. It currently operates under City code as a "drinking establishment-restaurant" (DE-R). A DE-R is essentially a restaurant that is allowed to serve alcohol so long as food sales exceed 50 percent of gross sales receipts even though the establishment may be located within 200 feet of residentially zoned land or a church, school or playground. If the 50 percent ratio of food sales to alcohol sales is not met, then by definition, the use becomes a "tavern and drinking establishment."

"Tavern and drinking establishments" (DE) are establishments engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises that derives in a six-month period less than fifty percent of its gross revenues from the sale of food and beverages for consumption on the premises. The applicant has indicated they are seeking the Conditional Use (CU) to allow the DE in the expectation that patronage will increase.

"Tavern and drinking establishments" are permitted by right in the LC Limited Commercial zoning district unless the use is located within 200 feet of a church, school, playground or land zoned residentially. If the property is located within 200 feet of such uses or residentially zoned land, the use must have a CU to operate legally. The applicant is required to obtain a CU since the land located 70 feet south of the application area, across 13th Street, is zoned TF-3 Two-family Residential and developed with a city golf course. Land located approximately 175 feet to the west of the Cedar is also zoned residentially (TF-3 and SF-5 Single-family Residential), however there is a railroad track located between the strip commercial center and the residential uses. Property to the north is zoned LC, and is used for vehicle repair. Land located east of the application area is also zoned LC, and developed with a commercial center.

The applicant's commercial strip center has square footage besides the portion of the building containing the Cedar offered for rent. The site plan depicts this space as being used for storage. It is not clear if the storage is in support of the Cedar Saloon or is some other type of commercial storage space. Parking for the center appears to be located primarily south of the existing building, and there are approximately 30 spaces. The parking standard for a DE is one space for every two occupants. For capacity purposes, the Cedar is rated for 60 occupants, requiring 30 parking spaces. Access to the site is provided by one drive off of Vesta Drive and one drive off of 13th Street. Railroad right-of-way is located immediately to the west of the application area, between the commercial center and the residences located further to the west. The railroad right-of-way is not zoned and is 100 feet wide.

CASE HISTORY: Yale Heights Addition was recorded in 1942.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Limited Commercial; vehicle repair
SOUTH:	TF-3	Two-family Residential; golf course
EAST:	LC	Limited Commercial; retail commercial
WEST:	SF-5	Single-family Residential / TF-3 Two-family Residential; residential

PUBLIC SERVICES: The area is served by municipally supplied services. 13th Street is a four lane arterial carrying between 15,798 and 17,600 average daily trips. 13th Street has 40 feet of half-street right-of-way at this location.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. The site shall be used in substantial conformance with the approved site plan. Areas depicted as storage on the site plan may be used for other uses provided those uses comply with all codes, such as zoning, parking or signage.
- B. Signage shall be in conformance with the sign code.
- C. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a tavern and drinking establishment.
- D. A minimum six-foot high screening fence constructed of wood, brick, stone, stucco, or concrete shall be provided along the entire length of the west property line.
- E. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Adjoining properties are zoned SF-5 Single-family Residential, TF-3 Two-family Residential and LC Limited Commercial. The TF-3 zoned property located south of the site is used for a public golf course, while the land to the north is zoned LC and used retail sales and vehicle repair. The developed residential uses are removed from the site by the existing 100-foot railroad right-of-way.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC which allows a wide variety of retail, office and residential uses. The site could be used as zoned and developed or redeveloped as currently zoned and potentially be economically viable. The narrow shape of the property is a site constraint to redevelopment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently operating as a restaurant selling less than 50 percent alcohol. Approval of the request will remove the limitation on the amount of alcohol allowed to be sold relative to food sales. The site is pretty well buffered by existing retail zoning, public golf course and railroad right-of-way. Given the sites current operations, approval of the request should not detrimentally impact nearby properties to any greater extent than they are already impacted.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide* depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. A tavern or drinking establishment would be in general conformance with the local commercial designation.
5. Impact of the proposed development on community facilities: None identified.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (10-0).

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12. **Case No.: ZON2005-39** – D & M Enterprises of Wichita (owner) Request Zone change from "B" Multi-family Residential to "OW" Office Warehouse with a Protective Overlay on property described as;

Lot 2, Block A, Peacock 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located Midway between Meridian Avenue and West Street, south of Central Avenue, and northwest of Donna Avenue and Westridge Drive

BACKGROUND: The applicant requests "OW" Office Warehouse zoning, with a Protective Overlay ("PO") on Lot 2, Block A, the Peacock 2nd Addition. The undeveloped lot is currently zoned "B" Multi-family Residential. The applicant proposes to develop the lot with a 2,000-square foot office and a 400-square foot storage building. These facilities will be used by a wholesale business that receives, stores, sales and delivers ball bearings as ordered by other firms. As described the proposed use is considered a Wholesale or Business Service (Art.II, Sec.II-B.o). The "OW" district permits Wholesale or Business Services as a use by right. The "OW" district is intended to provide office and warehousing space for the building trades and similar businesses with operating characteristics that do not require highly visible locations or vehicular access required by retail or high intensity office uses. The "PO" proposed by the applicant would restrict the other uses on the site to a church or place of worship, day care limited and general, group home limited and general, library, parks and recreation, automated telling machine, bank or financial institution, bed and breakfast inn, medical service, general office, commercial parking, personal care service, personal improvement services, printing & coping limited, restaurant (subject to Art.III, Sec.III-D.6.cc) and wholesale or business services.

There is one way in and out of the neighborhood via Westridge Drive, south off of Central Avenue. Westridge is a short (540-feet long) dirt and gravel residential street that dead ends at its intersection with Newell Avenue. Newell and Donna Avenues are the only streets that intersect with Westridge in this small neighborhood, both are dirt and gravel streets, short (300 – 400-feet long) and both dead-end against undeveloped residentially zoned properties. The zoning in this small, contained neighborhood is a mix of "SF-5", "TF-3" Duplex residential, and one undeveloped "MF-29" Multi-family Residential zoned lot, plus the undeveloped "B" subject site. The "SF-5" and "TF-3" zoned properties are developed as single-family residences and duplexes, with two lots currently being developed as duplexes.

CASE HISTORY: The subject property is platted as part of the Peacock 2n Addition, which was recorded with the Register of Deeds May 21, 2003.

ADJACENT ZONING AND LAND USE:

NORTH: "NR", "LC"	offices, holistic medicine, retail
SOUTH: "TF-3", "MF-29"	duplexes, single-family residences, not developed
EAST: "MF-29"	not developed
WEST: "SF-5"	single-family residences

PUBLIC SERVICES: The property is located along Donna Avenue, a short block south of Central Avenue. As previously mentioned, Donna is a dirt and gravel residential street that dead ends into undeveloped "MF-29" zoned property. No traffic counts or projections have been done for Donna. Donna has a full 60-foot right-of-way in this neighborhood. No street projects are included in the C.I.P. for the immediate area. The site has access onto Central Avenue, a five lane arterial. The nearest traffic counts are at the Sheridan/Zoo Boulevard – Central Avenue intersection: 12,540 ATD going west, 19,235 ATD going east, 1,842 ATD going south, and 5,787 ATD going north. All utilities are available to the site

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan indicates that the site is appropriate for "Urban Residential" development. This category reflects the full diversity of residential development densities and types typically found in a large urban municipality. The site's north side abuts property with frontage along Central Avenue that is identified by the Land Use Guide as appropriate for "Local Serving Commercial" development. This category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The Unified Zoning Code defines the "OW" zoning district as generally compatible with the "Commercial" and "Industrial" designations of the Comprehensive Plan. The applicant's proposed "PO" reflects uses that are generally permitted by right in the "NR" zoning district. The proposed zone change and the "PO" essentially extends the abutting northern "NR" zoning south onto the site and allows for development that is generally less intensive than an apartment complex. The applicant's proposed "PO" buffers the neighboring residential properties from traffic onto Donna Avenue that would be allowed in the "B" zoning district as well as limiting the height of buildings on the site to the same 35-foot standard that the neighboring "SF-5" and "TF-3" zoned properties are held to.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for "OW" zoning for Lot 2, Block A, the Peacock 2nd Addition be APPROVED, with the following provisions of PO #163.

- (1) Permitted uses are wholesale or business services, a church or place of worship, day care limited and general, group home limited and general, library, parks and recreation, automated telling machine, bank or financial institution, bed and breakfast inn, medical service, general office, commercial parking, personal care service, personal improvement services, printing & coping limited, and restaurants (subject to Art.III, Sec.III-D.6.cc).
- (2) No outside storage or display.
- (3) Dedication by separate instrument of complete access control along the south side of the site, where it abuts the north side of Donna Avenue. Access onto the site will be from Central Avenue.
- (4) Solid screening, a minimum of 6-feet in height, will be provided along the east, south and west sides of the property where abutting or adjacent to residential zoning.
- (5) Landscaping will be per the Landscape Ordinance, along the east, west and south sides of the site, where abutting or adjacent to residential zoning.
- (6) 35-foot maximum height for all structures.
- (7) Compatibility setback standards will apply to the site's west side. The platted 20-foot setback will remain in place on the site's south side. A minimum of a 5-foot setback will be in effect along the site's east side.
- (8) Lighting will be per the Unified Zoning Code, including a maximum height of 14-feet for any pole lighting. Pole lights will be located a behind the setbacks, as noted along the site's east, south and west sides.
- (9) Signage will be per the "NR" Neighborhood Retail zoning district, with no portable signs.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This small contained neighborhood, as had several recent developments. The properties abutting the site's north side are zoned "NR" and "LC" and are developed as a holistic medical office and another office/retail building. The holistic medical office was built in 2003. The properties south and west of the site are zoned "SF-5" and TF-3", with the most recent development being the current construction of two duplexes across Donna Street from the site. The property east of the site is zoned "MF-29" and is not developed.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as apartments with access onto Donna Avenue or as duplexes or single-family residences. It must be noted that the two largest properties in the neighborhood that are not developed are both zoned Multi-family Residential.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A zone change from "B" to "OW" at the site, with the provisions of the "PO" should have a minimal effect on the character of the neighborhood and in fact will decrease the potential for vehicular traffic on Donna Avenue, a dirt and gravel residential street. The "PO's" maximum height of 35-feet is 20-feet less than what is permitted in the current "B" zoning and as such will provide more privacy for abutting and adjacent residences. The application of the compatibility setback standards to the site's west side will also provide more buffer than the what would be applied in the "B" zoning district.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is not totally in conformance with the *Comprehensive Plan* "Wichita Land Use Guide," but as proposed with the "PO" allows for development of the property in a less intrusive manner than the an apartment complex.

5. Impact of the proposed development on community facilities: A zone change at the application area to "OW" with the provisions of the "PO" will permit less intensive uses, and generate potentially less traffic, than an apartment complex as permitted under the "B" district. This zone change should not increase demands on community facilities.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (10-0).

13. Other matters/adjournment.

SCHLEGEL In your packet there is a green sheet, it is about a workshop being conducted by the Sedgwick County Association of Cities and Wichita State University, if there is anyone interested in "Planning and Zoning Issues beyond the basics".

I have one other item. If you are following the media there has been a great deal of activity regarding the arena, and the Arena Neighborhood Redevelopment Plan. I would like to keep you briefed on those items. The question that I have for you today is how do you want to do that? I can come to you on October 20th, and give you a briefing, status report on where things stand. Or I can come to you on November 3rd, with a whole bunch more information about each of the four potential sites that have been identified by the County for the arena, or I can do both. I want to give you the opportunity to know what is going on, and provide any feedback that you might be interested in providing. Especially with the site selection, because the County is moving forward very quickly with the selection on the site for the arena and you will not get a lot of opportunities for input on that.

DUNLAP John, I am getting questions from the public because some people believe that the MAPC is going to make the decision, and I would appreciate both information sessions.

MARNELL I would be interested in how you are looking at each of those projects from a transportation standpoint.

SCHLEGEL On October 20th, I will have more general information for you, and what will happen is after the MAPC meeting on October 20th and before the November 3rd meeting, the consultant team for the County will do a very detailed analysis of each of those four sites. So the type of information you are looking for Commissioner Marnell on traffic impacts will be available at the November 3rd meeting.

DUNLAP Commissioner Sherman is on the citizens committee for the City of Wichita to look at the surrounding area, including traffic.

SCHLEGEL Yes, she is the MAPC representative for the arena.

HENTZEN I appreciate your attempt keeping us informed. I assume we will not be taking action.

SCHLEGEL Correct, you will not have an official role, but I think the County Commissioners and the City Council will be interested in any input the MAPC would give.

The Metropolitan Area Planning Department informally adjourned at 2:19 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2005.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)